

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:16-cr-00056-MR-WCM-1**

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.

ORDER

YUMARKUA R. LITTLEJOHN,)

Defendant.)

THIS MATTER is before the Court on the Defendant's motions seeking amendment of his Presentence Report [Docs. 53, 54].

The Defendant pled guilty to possession with intent to distribute cocaine base. Prior to his sentencing, a Presentence Report (PSR) was prepared. The PSR recommended a two-level enhancement due to the Defendant possessing a dangerous weapon at the time of the offense. [Doc. 43 at 8]. Defense counsel objected to this two-level enhancement, but that objection was overruled. In December 2016, the Defendant was sentenced to 60 months' imprisonment, which was at the low end of the applicable Guidelines range. [Doc. 47]. The Defendant did not file a direct appeal. He

filed a motion to vacate pursuant to 28 U.S.C. § 2255 in May 2018, but that motion was denied as untimely. [Doc. 52].

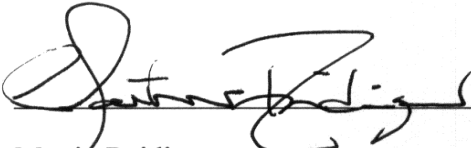
The Defendant now moves for an Order amending the PSR to remove the two-level enhancement for possession of a firearm during the offense. For grounds, the Defendant argues that such enhancement prevents him from earning good time credit as a reward for successful completion of the Residential Drug and Alcohol Abuse Program (RDAP). [Docs. 53, 54].

As noted above, the Defendant did not file a direct appeal challenging his sentence. Accordingly, the Defendant has waived further challenge to the two-level enhancement in his PSR. See United States v. Emanuel, 869 F.2d 795, 796 (4th Cir. 1989) (holding that defendant waived challenge to PSR by failing to seek direct review); United States v. Scott, 8 F. App'x 275, 276 (4th Cir. 2001) (per curiam) (citing Emanuel with approval).

IT IS, THEREFORE, ORDERED that the Defendant's motions seeking amendment of his Presentence Report [Docs. 53, 54] are **DENIED**.

IT IS SO ORDERED.

Signed: April 8, 2019


Martin Reidinger
United States District Judge

